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1897 R. S. Robertson

AN ECHO FROM THE CONTROVERSY

—OVER THE—

LIEUTENANT-GOVERNORSHIP IN 1887,

——BY——

R. S. ROBERTSON.

"There goes a man who would have been Governor of Indiana but for showing the white feather when elected Lieutenant-Governor."

Were it not for this remark, made by a young man becoming prominent in the politics of the state, as I entered the rotunda of the Denison not long ago, it is probable that this paper would never have seen the light. It so impressed me with the idea that a falsehood had made a deep impression throughout the state, and was infecting the minds of the rising generation, that I feel it my duty to myself, and to my children, to place before the people, another version of that unfortunate controversy, and correct, if possible, the erroneous impressions growing out of the statements circulated to my detriment by those who sought to shield themselves from the storm of indignation which swept the state, and a good portion of the country at the time. This would seem a good time to do so, when no political campaign is occupying attention, and no parties interested are seeking the suffrages of the people for office.

At the time of the "Compromise" of 1887, the Public Press throughout the country, and with practical unanimity in the State of Indiana, did me full justice, both in their reports and editorially, and my course was almost universally commended.

It was not until, in an unfortunate moment, (for myself) I consented to become a candidate for the nomination for Governor,

before the Convention of 1888, that statements and charges were made, first in secret, but at the Convention openly, reflecting discredit upon me, and no doubt contributed largely to my defeat. I am not complaining of the decision of that convention, of which a prominent newspaper said:

"The treatment accorded Mr. Robertson was outrageous. The convention not only spurned his claims. but it insulted his manhood. The manner in which Col. Robertson was ejected from the senate in '87 was the essence of mildness compared with the barbarous manner in which he was kicked out of the convention yesterday."

On the contrary, I submitted without murmur to its decree, and loyally supported its nominees, who, when inaugurated, failed to recognize me by an invitation to participate in the ceremonies, the Lieutenant-Governor elect being escorted by the usurping President of the Senate, when the real Lieutenant-Governor was in the city, and in all else but presiding over the Senate, had for two years performed all the functions of the office.

I have not since been found wanting in loyalty to the party, whose principles I revere and have supported to the best of my ability, in every campaign since that of 1860.

Neither is anything set down here in a vindictive spirit, but "with malice towards none, and charity for all", I seek merely to vindicate the course pursued at that time of turmoil and danger, when the responsibility was on me, and not on the clamorous mass who felt the wrong, and to correct what I believe to be false impressions, growing out of false statements, made first in self defense by those seeking to ward off condemnation of their own acts, and repeated in the heat of a political canvass until they finally became accepted by many as facts, when the true facts were forgotten.

The charges referred to are:—

1. That I was present at the caucus which determined upon, and gave my assent to, what I shall not hesitate to characterize, and hope I may be pardoned in so doing, as the weak and cowardly compromise of the Legislature of 1887.

2. That I "lacked sand" and was "cowardly" in the attempt to take possession of the chair of the President of the Senate on the famous 24th of February of that year.

The first is absolutely untrue, and none are better informed as to its falsity than those who were the most industrious in asserting it.

Of the truth of the second, the people may judge by the facts which I shall attempt to reproduce from the records. It would be unnecessary to recall these facts were it not that those who were themselves responsible for the blunder, have ever since been

busy in attempting to falsify history and make me the scape-goat for their act.

They having been present and participating in the compromise, their uncontradicted statements have gained credence in their respective communities, and having been made secretly, it was impossible to meet and refute them.

But during the week of the Republican State Convention, the open warfare they made, brought knowledge of what had before been but unlocated rumors, disclosed their motives, and that those who had plotted in secret to bring about that detested compromise were now the most vociferous in the assertion of the charges mentioned.

Let us briefly recall the events of those days.

Soon after I was elected to the office of Lieutenant-Governor, a result few Republicans had expected, and no Democrat in the State believed possible, it began to be rumored that I should not be permitted to enjoy the fruits of my victory; and some time before the assembling of the Legislature, Senator A. G. Smith of the Counties of Jennings and Jackson, who had been elected President pro tem of the Senate of 1885 on the last day of the Session, while Lieutenant-Governor Manson was present and in the chair, brought a suit in the Marion Circuit Court against Wm. R. Myers, then Secretary of State, alleging his election as President pro tem of the Senate, the resignation of Lieutenant-Governor Manson, and that by reason thereof he had become entitled to discharge the duties and receive the pay and emoluments of the office of Lieutenant-Governor; that at an election recently held, I had received the highest number of votes for that office; that the returns were in the hands of the Secretary, and unless restrained by the Court he would send them to the Speaker of the House etc. and asking the Court to decide that I had not been legally elected.

The Circuit Court decided against him and he appealed to the Supreme Court, which was composed of four judges who were Democratic in politics, and one who was Republican. This Court affirmed the Judgment of the Circuit Court by a unanimous decision rendered before the Legislature convened.

Many have forgotten, and many others never knew, what the Court decided in that case, and how positively it laid down some fundamental principles in construing and defining its own powers.

I was not a party to the suit, and Smith and Myers undertook to run it to suit themselves, with a liberality and generosity in dealing with the rights of another, which I never saw equalled in more than a quarter of a century passed at the Bar.

They entered into a written stipulation that they would waive all questions of jurisdiction for me, and asked the Court to pass finally upon the questions they wanted decided, but apparently were not qualified to present in the proper way, to the proper tribunal.

They asked the Court to pass upon my title to the office in a suit they had not made me a party to, but the Court unanimously repudiated this very generous proposition and said:- "It is a principle of Constitutional law, declared in our Constitution and enforced by many decisions of our own and other Courts, that the departments of government are separate and distinct, and that the officers of one department shall not invade any other. —The question is one of jurisdiction over the subject matter, and jurisdiction over the subject matter comes from the law alone. It is perfectly clear in reason and upon authority, that no man can invest the Courts with jurisdiction of the subject matter. The law alone can do this." The Court then quotes approvingly from the Supreme Court of Minnesota in a similar case, where it says:- "An Executive officer cannot surrender the defences which, not for his, but the public good, the Constitution has placed around his office. Still less can his consent authorize this Court to transfer the Constitutional limitation of its powers, and assume a jurisdiction, which by the fundamental law it is forbidden to exercise." Our Court then adds "It would not only be a vain and fruitless thing to assume to decide a question where there is no jurisdiction, but it would be a mischievous thing, because it would give an appearance of authority to that which is utterly destitute of force. Such a decision would be the merest shadow of authority, binding nobody." *Smith vs Myers 109 Ind. Rep. 1-9.*

These liberal quotations are made because they furnish a complete answer to the question so frequently asked during the subsequent proceedings - "Why does not Robertson waive the question of jurisdiction and ask the Court to decide whether there was a legal election or not, etc.," and prove that all such queries, and the offers to join in submitting the question to the Courts were insincere, and the shallowest kind of buncombe.

All know that certain tribunals may only decide certain questions, and that other tribunals, with equal or greater powers, may not touch such questions at all. All must confine themselves to the questions allotted them by the Constitution and Laws. Hence the necessity for the creation of the Electoral Commission of 1876.

In this case, the Constitution (Art. 5. Sec. 6) had conferred jurisdiction only upon the General Assembly, by providing that "Contested elections for Governor and Lieutenant-Governor *shall*

be determined by the General Assembly in such manner as may be prescribed by law."

The law prescribed the manner, in direct and explicit terms. Specification were to be filed with the Speaker of the House within ten days after it meets. The Speaker is required to give notice to the person whose election is contested and to both houses, and then follows - "Each House shall choose by a *viva voce* vote seven members of its own body, and the members thus elected shall constitute a committee *to try and determine such contested election;* and for that purpose shall hold their meetings publicly, at the Capitol, at such time and place as they may designate, and may adjourn from day to day, or to a day certain, until such trial shall be determined. They shall have power to send for persons and papers and to take all necessary means to take testimony, extending like privileges to the contestor and contestee: and shall report their judgment in the premises to both branches of the General Assembly; which report shall be entered on the Journals of the respective Houses, *and the judgment of such Committee shall be conclusive.* If such election be adjudged invalid, such office shall be vacant." *Sec. 4743 - 6 Rev. Stats, 1881.*

Why was not this tribunal, invested by the Constitution and laws of the State, with the sole power of trying and determining the questions, appealed to, instead of the foolish and futile appeals to Courts which had no jurisdiction, and had unanimously not only so decided, but also that I could not by consenting, confer jurisdiction, and this before the Legislature convened and the second appeal to the Court had been made? There can be but one answer. The Senate was democratic; the House, republican. The joint Committee would have consisted of seven Republicans and seven Democrats, and before it I would have had an equal chance for my rights. In the Supreme Court, it was doubtless reasoned by the conspirators, "The Court is Democratic four to one, and we can control its decision through the party organization, and by means of the party lash."

Those who thus reasoned knew not the power which holds judges to the law, or they would have known that their reasoning might prove fallacious.

It has been erroneously, and purposely so, stated that, in the subsequent case of Smith vs Robertson, the Court decided nothing but that it had no jurisdiction. It decided by the opinion of three judges, a majority of the Court, that the only tribunal clothed with the power to try and determine the questions which Smith asked the Court to stultify itself by deciding, was the tribunal of the General Assembly so provided by law, and that this suit of Smith's was a contest of the election of a State officer, which should have gone to that tribunal.

That two members of the Court, after the Sentinel had "d--d their cowardly souls", expressed such radically different views from those they had so emphatically expressed less than two months before, has nothing to do with the question. It stands decided—"Thus saith the law." Neither does it matter, that it may be true, and probably is true, that such a tribunal is not the best that could be chosen for the purpose. It is *the only one which has been established for that purpose.*

There was another reason for the futile appeal to the Courts. The legislative tribunal might perhaps decide not only rightly, but at once, and thus the supposed advantage of keeping up partisan rancor and strife until the senatorial contest was ended, would be lost.

Whatever the reasons may have been, history will probably record the proceedings as unparallelled in stupidity, and a political blunder which ranks as a crime.

When the Legislature assembled on the 6th day of January 1887, as a matter of course I had no right to preside, there having been no official canvas of the vote, and this could not take place under the law until the following Monday.

The Senate had 31 Democratic and 19 Republican Senators. It organized unlawfully and selected an unusual number of door-keepers, assistants and secretaries, and all were apparently chosen for development of muscle rather than brains, for fighting qualities rather than fitness for their positions.

Threats were freely made, and apparently from high Democratic authority, that I should not be allowed to preside. *At the same time, three Democrats of high character and standing, one of them, being a state officer of high rank, visited me and proposed, that if the Republicans would agree not to unseat any member of the House until a U. S. Senator had been elected, I should be seated as President of the Senate without objection.* I declined to consider the proposition, on the ground that I had no right to attempt to influence or control representatives who were acting upon their oaths, and further, that my right to preside over the Senate had no connection with any action which might be contemplated by the House of Representatives.

It will be observed, that a compromise on the basis offered would have been better for me than the one afterwards surreptiously made, for it would have seated me, and avoided the labor and expense of the subsequent litigation, whereas by the compromise effected, the Democrats got just what they asked for, and I was left out.

At the first caucus of republican members of the Legislature, a committee consisting of six from each House was appointed, to

which was added Senator Benjamin Harrsison and myself. It was empowered to act in case of emergency, and to call the general caucus whenever deemed necessary. This was the only committee appointed and clothed with authority to act for and represent the interests of the Republican party, and became known as the "Steering Committee."

I attended every meeting of this Committee and every general caucus, *save one to which I was not invited*, and gave a loyal assent and support to all their formulated plans, and acted in full accord with the caucus decisions, until it was secretly determined to act without me. At the first general caucus, besides the appointment of a steering committee, the following resolution was unanimously passed.

Resolution of Senate and House Caucus (Rep.), Jan. 10, 1887.

"Resolved, That it is the sense of the Republican Senators, that Governor Robertson should go unarmed to the door of the Senate Chamber at such time as he deem best, and there demand admittance, and if refused, that he should use no force to gain admittance, but if admitted and then resisted by force in attempting to enter the President's desk, that he should not prosecute such attempt so far as to involve himself in any violent personal collision or struggle. Carried.

W. J. Davis,

Chairman of Caucus.

January 10, 1887."

It was signed and delivered to me that evening by the Chairman of the Caucus, with the remark that it might be useful to me some day.

On Monday, January 10, the vote was canvassed and I was duly declared elected, and took the oath of office. On attempting, as customary, to give a brief inaugural address, a scene of riotous tumult ensued. Interruptions of every kind known to hoodlums of parlimentary bodies were indulged in, and these degenerated into insults, threats of violence, cries of "put him out of there", "hang him", and language unfit to repeat, which completely drowned my voice, so that but few words of my brief address were heard, even by those close by my side.

I doubt whether such a scene was ever before witnessed in any deliberative body in America, or out of Bedlam.

On the 11th, as decided upon by the Steering Committee, a statement of the vote as declared by the Speaker of the House, and of the declaration of my election, accompanied by the oath of office, was presented to the Senate by Senator Davis, with a motion to enter it upon the Senate Journal as the law prescribes.

The presiding officer of the Senate, with the modesty for which he is noted, decided the motion out of order, an appeal from his decision was laid upon the table, and the resolution and accompanying papers were refused the privilege of even being entered upon the journal.

On the 12th, again in accordance with Committee instructions, Senator Drake offered in the Senate the following: "Whereas Lieutenant Governor Robertson is now present in the Senate Chamber to take the Chair as President of the Senate, therefore, I move that a committee of two Senators be appointed to escort the Lieutenant-Governor to his Chair as presiding officer of the Senate." The presiding officer, again with becoming modesty, decided the Resolution not in order, and it was refused a place in the Senate journal.

In further pursuance of the instructions of the Committee, Senator Campbell then presented my formal demand for possession. Senator Bailey moved to reject it without reading. After some discussion, the democratic majority mangnanimously consented to permit its reading, and then at once rejected it, and refused it a place in the journal of the Senate.

It was as follows:

"Indianapolis, January 12, 1887.

To the Indiana Senate:

Gentlemen: I have the honor to inform you, that, having taken the oath of office, which is hereto attached, I am in possession of the office of Lieutenant Governor of the State of Indiana, am able to attend your sessions, and ready to enter upon the constitutional functions prescribed in Section 2 of Article 5 of the State Constitution, towit: to be President of the Senate, with all the rights and duties in said section provided.

That you have in my judgment, wrongfully excluded and prevented me from exercising that function and duty of my office.

Against this, your action, I do hereby most earnestly protest and remonstrate and respectfully demand my rights.

R. S. Robertson,

Lieutenant-Governor."

The original oath of office was attached.

That same evening, I was served with a summons and notice in the suit of Smith for Injunction, and from that hour the legal points of the case were wholly in charge of my attorneys, Messrs Harrison, Miller & Elam, and Attorney-General Michener, and I may add here, never was a case more ably and faithfully defended, and I never had cause to differ in opinion from my able and conscientious counsel at any stage of the proceedings. We were in perfect accord and harmony throughout.

On the 13th, Judge Alex. C. Ayers of the Circuit Court of Marion County, granted a temporary injunction as follows:

"It is therefore ordered, adjudged and decreed that the said Robert S. Robertson, defendant in this case, be, and he is hereby, restrained and enjoined from performing or attempting to perform in any manner, any of the duties or functions of the President of the Senate of the State of Indiana. And the said Robert S. Robertson is restrained and enjoined especially from presiding or attempting to preside as Lieutenant-Governor, as President of the Senate aforesaid at the joint Convention of the Senate and House of Representatives of the General Assembly of the State, to be holden at the Capitol of the State of Indiana, on the 19th day of January, 1887, next ensuing, and the said defendant is so restrained and enjoined as above herein until the further order of this Court in this cause."

After full hearing, this judgment was made perpetual on the 17th, from which I appealed to the Supreme Court.

No lawyer, I think, will doubt as to the first part of this order, that, had I disobeyed it, I would have been liable to heavy fine and imprisonment. This has been too often and emphatically decided to admit of doubt. As to the latter part of the order, I had other views.

On the evening of the 18th of January, the "Steering Committee" met at the room in the rear of the office in the New Denison. Some of the members came late, and came together. No reason for the tardiness was asked or given, but in the light of subseqnent revelations, this fact has some significance.

At that meeting the situation was very freely discussed, including the legal aspect of the case in view of the injunction, and the necessity for a plan of action to be followed in the joint convention which was to meet on the morrow.

I was asked to give my views, and did give them with emphasis. No one present failed to understand my wishes and intentions unless he willfully closed his ears to them.

I stated that I desired to preside over the joint convention and was ready and willing to assume any risk or responsibility which might attend the attempt to do so, That I thought, according to all precedent I should preside; that I was ready to do anything the party representatives would stand by me in doing; that I wanted the opportunity to disobey the injunction in that respect, because it was the only way by which I could get the questions involved before an unprejudiced Court, because the Convention was to assemble under a Statute of the United States, and not under State law, and was one with which the State Courts had nothing to do, and if arrested for contempt of the Marion

Circuit Court, I could sue out a writ of *Habeas Corpus* in the U. S. Court and test the question there. The only weakness in my position that night, if it was a weakness, consisted in my expressing a willingness to abide by the decision of the caucus, but I did so in the belief that it would be an honest one, in the interests of the party and the State, and that the honest judgment of the Committee ought to be better than the opinion of one man. Had I known I was in the presence of men already engaged in secret treason, that willingness would not have been expressed.

One of the Committee said to me—"You have told us your wishes—What is your best judgment in the matter?" I replied, "So far as my judgment is not colored by the wish, it is the same."

A resolution was then passed, without a dissenting vote, declaring it to be the sense of the Committee that I should preside.

After this the members began to indulge in talk. One suggested that perhaps we were going too fast. Another, that perhaps it was more prudent not to take that course. Another that there was no law which gave the right to the Lieutenant-Governor to preside, that it had only been a custom, and the Convention might elect a Presiding Officer, until a majority had expressed themselves against the propriety of my presiding, and in favor of Speaker Sayre being selected to preside. *But the resolution above mentioned was not rescinded.*

One by one they began to put on overcoats to disperse. I called attention to the fact that they were leaving the business of the meeting undecided, and it was agreed that we should meet in the same place at half-past eight in the morning, and one member of the Committee remarked—"Well, wait till morning, something may happen to change all our minds."

In the light of the morrow's events, this remark proved significant, for "something" did happen. The morning meeting was not held, as only three members of the committee put in an appearance. I considered the question still open, and on the morning of the 19th went to the Hall of the House, expecting to preside.

As the hour for the Convention approached, I found the Republican members absent. I addressed a note to Senator Huston, who was chairman of our committee, advising him of a rumor of the presence of the Sheriff of Marion County with a warrant for my arrest, and suggesting my intention (if approved) to put myself in his way to court an arrest.

This note was sent by a messenger, who on his return informed me he had found him in the Speaker's room, where a meeting of some kind was being held. This was the first and

only intimation I had of a meeting or caucus, and I had no intimation of its object.

As I passed towards the Speaker's desk, a reporter asked—"Are you going to preside?" I replied, "I certainly shall if my party will permit me to do so."

Immediately after this a member of the House came in, and as he passed me said, "They have left you out." Asking what he meant, he replied, "They have agreed to a compromise by which you are left out, and will not be allowed to preside." This was while the Representatives were coming into the Hall, and they were followed by the Senators, Smith and Sayre taking their position side by side in the Speaker's desk.

The first business done after the call to order was the reading of that now famous compromise agreement, which is here given in full.

"Proposed by the committee of the Republican caucus to the Democratic members of the Fifty-fifth General Assembly that, by way of an orderly and amicable settlement of the difficulties relatlng to the joint convention, the President of the Senate Hon. A. G. Smith, shall call the joint convention to order, and then declare that the Speaker of the House shall conduct the subsequent proceedings, no legal right of said Smith to be thereby waived or affected; that thereupon the Speaker of the House shall preside over the deliberations of the joint convention; that the roll of each is to stand and be called as it existed on Tuesday, January 18, 1887, and each member thereof shall be called, and shall actually vote and have his vote recorded; that any member of the convention is to have the right to object to the name of any person upon the roll of either house being called, or against his being permitted to cast a vote, or against any further proceeding therein, and to protest against any vote being received and counted, or against any other act, and to have his protest and objection thereto entered upon the journals of both houses. The Senate to attend the joint convention, attended by its principal Clerk, Door-keeper, and its Secretary and Assistant Secretary only, without show of menace or force, and that the result of balloting by said joint convention shall be announced by said Smith, and the Speaker shall thereupon adjourn the joint convention. Colonel Robertson, in deference to the injunction of Judge Ayres, is to take no part in the holding of said joint convention, or in any wise to attempt to participate therein. The President of the Senate shall order the calling of the Senate roll, and the Speaker of the House the roll of the House. Any violation of the spirit or letter of this memorandum shall result in its abrogation. This agreement to be in full force until a Senator is elected.

Jewett, Campbell, Fowler, Gardiner, Gordon, Sellers, French, Johnson, Kellison, committee."

Except for the brief intimation a moment before received, it was the first knowledge I had that such a proposition was be-

ing considered or even contemplated by any one. A better compromise had been rejected ten days before. I suddenly found myself deserted by those who should have stood by me and felt that I was now utterly alone and powerless. My party had surrendered to the enemy, and I was not even consulted as to the disposition of myself.

Some of the inside workings of the plot, and some facts in regard to the inception and carrying out of the terms of the surrender have since come to light.

It did not originate with the Committee chosen by the Republicans. It was never discussed in any meeting of that Committee. No Committee was appointed by either House, nor by joint action of both Houses, to consider such a proposition. How then was it brought about? Let the record answer.

On the 17th of January, Senator Howard (Dem.) introduced in the Senate concurrent Resolution No. 2, providing for a conference committee of five from each House to provide some way out of the troubles then existing between the two Houses. It passed the Senate by a strictly party vote, every Republican Senator present voting against it. *Senate Journal, 1887, p. 181-2.*

When it reached the House, the same day, it was promptly tabled, every Republican member present so voting.

Thus the proposition for a conference committee was defeated by the unanimous sentiment and vote of the Republicans of both Houses.

In the face of this official action, what do we find?

On the 18th of January, the afternoon session of the Senate was not called until 2:45. Senator Fowler (Dem.) said, "I think all our troubles will be amicably arranged in a manner satisfactory to both branches. I move the Senate take a recess till 3:30 o'clock. "At 3:35, the President pro-tem (Smith) said "The purpose of the intermission was that a conference might be had between Senators and members of the House of Representatives, *or such as we selected for that purpose.* That the conference has been held, and the chair is requested to state that the controversies growing out of the seating and unseating members in the Senate and House will remain in statu quo until to-morrow morning; and that arrangements are being perfected looking to the settlement of all such differences. The probability is that there will be a settlement, so nothing further will be done at present looking in the direction named." *Brev. Leg. Report, 1887, p. 120, Senate Jour., 1887, p. 196.* It should be born in mind that during all these proceedings, I was locked out and denied admission to the Senate Chamber, and therefore had no

knowledge of its proceedings but what was reported to me, and did not know of this.

About the same hour, the House decided by Resolution, that in all matters relating to the Lieutenant-Governor, it would recognize Robertson only. *Brev. Leg. Rep., 1887, 124-5.*

But it seems that no action was necessary on the part of the House, or of the Republicans. The Democratic caucus was all that was needed.

Green Smith says the conference committee was composed of "such as *we* selected for that purpose." Only three of the "*selected*" Republicans placed their names on record as signers of the Compromise. *Brev. Leg. Report, 1887, p. 131.*

There were others concerned in it as much as they. Indeed, it would seem difficult for any Republican Senator to disclaim participation in, or knowledge of, the compromise conference, when the record shows not only the statemenf by the chair of the purpose of the recess; the further statement of the probable result of the negotiations, *but also the fact that every Senator was present.*

It would seem also that some explanation is necessary as to the reason for concealing that action, until it became public only through the publication of the Brevier Legislative Report, more than a year later.

What were the subsequent proceedings of this "selected" committee?

We will call Ex-Speaker Sayre as a witness. In an interview published by the Cinn. Enquirer of Nov. 5, 1887, he is quoted as saying—"the night before the joint session of the House and Senate was held to take the first ballot, a number of the Republicans from both branches *called at my private room*, and there discussed the situation. It was there decided that something must be done to avert the disgraceful collision and brawl of the following morning. The members decided, after discussing a number of plans, *that under no circumstances should Lieutenant-Governor Robertson preside. It was decided that the Speaker of the House should preside.*"

That the members who thus called at Sayre's private room, and made that momentous decision was the committee of conference that Green Smith announced "we" had selected, there can be little doubt , and yet after being so selected, and reaching that decision, they came to the regular committee meeting at the Denison, remained in session until nearly mid-night without lisping a word to inform the rest of us that they had been selected by the Democrats to act in the matter, that they had held a meeting at Sayre's *private room,* that they had decided "that under no cir-

cumstances should Robertson preside", or, "that Sayre should preside", but this revelation is an ample explanation of the lateness of their arrival, and the remark made by one of them—"Well, wait till morning. Something may happen to change all our minds."

The same distinguished witness, in the same interview, further says—"The following morning, a short time before the joint convention, another caucus of the Republicans was held at my rooms. The compromise measure was introduced then.

That compromise has been very fully discussed. Discussion, however, is hardly a proper term to use, for it was universally condemned by the Republicans of the State. Its first clause fully justified the term "surrender." It is not put as the result of an agreement after discussion, but reads—"*Proposed by the Committee of the Republican Caucus to the Democratic Members.*"

We, the Democrats, select such as we deem fitted for our purpose, and those selected prove the fitness of the selection by opening the gates to the enemy—yes, by surrendering the castle, itself.

The mass of the Republican members were honest. They were tricked and misled into believing that they were voting upon a measure decided upon by their regular committee.

Was Robertson cognizant of, or present at these proceedings? Every newspaper of the time said he was not. Mr. Sayre in his open letter to the Sentinel, published in the *Cincinnati Commercial-Gazette* of Nov. 22, 1887 says:—"I have never said to anybody that Lieutenant Governor Robertson was present when the Compromise agreement was made, or that he knew it was being made, *or that he assented to it in any way, for it would not be true.*"

Again, in a letter of his published in the Fort Wayne Gazette of Nov. 27, 1887, he says:—"*Robertson was not present when the agreement was made.*"

Sayre ought to know. He does know, and that question ought to remain settled in the negative forever.

Now as to the other assertions—"lack of Sand", "Cowardice in not taking his seat" on the memorable 24th of February.

On the afternoon of the 23rd, the Supreme Court handed down its long delayed and eagerly expected decission in the case of the State ex Rel. Smith vs Robertson, reversing the judgment of Judge Ayres. A hurried conference was held while waiting for the Certificate of the Clerk, and when it came, the Democratic Senate had heard of the decission and hastily adjourned. The chamber was immediately cleared, and a democratic caucus called to meet there at once.

That night the Senate door-keepers force was doubled, increasing it to about fifty men. All were armed with revolvers and occupied and guarded the chamber and galleries all night. We were informed that night, and some of them have since stated, that their instructions were to keep separate as much as possible, and in event of the doors being forced open, to concentrate their fire upon the crowd at the doors. These extras were selected from the roughs of Indianapolis, as an examination of the pay rolls will prove.

The same evening, a full Republican Senate caucus was held to consult over the situation, and the following is a minute of the proceedings, made at the time. Every Republican member of the Senate and some members of the House were present, and I was present on invitation, and addressed the caucus, advocating a straight forward and bold course. To one who interrupted with a question of conscience, asking if I would advise a member to vote against his conscientious thought, I replied, "This is a time to put your conscience behind you, and not thrust it six feet to the front."

"Proceedings of Senate Caucus (Rep.) Feb. 24th, 1887.

Resolution by Senator Kennedy.

Resolved, that it is the sense of this meeting that Robertson should make his demand for the position of presiding officer until he meet with resistance which would amount to violence, when he should desist, and then the Republican Senators should desist from participation in all legislation.

Senator Dresser moved to amend by not restricting Robertson from going as far as in his judgment the circumstances required, but for the Senate to refuse to join in legislation or proceedings of the Senate.

Carried as amended.

It was declared as the sense of the Caucus.

1st. That the President pro-tem can be recognized under protest.

2nd. That if communication is refused, it can be sent, a copy to each Senator.

3rd. That a message from the House can be sent reciting the facts, followed by a memorial from the Republican Senators.

Moved by Senator Drake to prepare a memorial—carried, as follows:

1st. A transcript of the proceedings of the court ordered.

2nd. Memorial ordered to be prepared.

3rd. Senator Drake to present the abstract of House Record and move for the admission of Lieutenant-Governor Robertson.

A committee was appointed to prepare a protest to be signed by all the Republican members.

Committee appointed, consisting of Senators Huston, Macy and Moore.

Winter, Senator, moved:

In event of Robertson being admitted, it is the sense of the caucus that he would not be justified in violence. Carried.

Winter, Senator, moved:

In event of the exclusion of Robertson, the Republican Senators protest, and then remain in seats and recognize the President pro tem under protest. Carried."

It will thus be seen that my hands were tied to some extent, even prior to the time for action.

In the morning I went to the Senate door in company with a Senator. At first I was denied admission. There were several guards outside the door. Only one of the double doors was opened at all, and that momentarily, and held by the guards outside and in, nearly closed. After a while, the door was opened a few inches and it was announced that I might enter. With great difficulty, I was squeezed and pushed through, and the door was immediately closed to exclude those with me. A large crowd had gathered in the corridor near the doors, but not by any prearrangement, and it was entirely without organizations or plans.

On entering, I found the deck literally cleared for action. Every chair that could be lifted, had been removed. Not a thing was left in sight which could be used for a weapon of offense or defense. Many of the Senators were in their seats, but a number of Republican Senators could hardly gain admission.

Very few Republicans not members of the Senate were inside, but quite a number of well-known Democrats were there, and I particularly noticed the leading Democrat of the day, Simeon Coy, in a prominent position.

The effort of Senators and others to gain entrance caused quite a serious and tumultuous scene about the doors.

What took place with reference to me is thus officially recorded in the Brevier Legislative Reports of that session.

"Lieutenant-Governor elect Robertson, (after an assistant door-keeper had used force to prevent his ascending the steps leading to the President's chair, and hurled him violently across the hall) said—Gentlemen of the Senate: I have been by force excluded from the position to which the people of this State have

elected me. We have heard it stated that if the Supreme Court decided favorably, I would be recognized—.

The President pro tempore (interrupting): Unless the gentleman desists, he will have to be removed from the Chamber.

Lt.-Gov.-elect Robertson: I wish to make a statement, you may remove me from the Chamber if you wish. You perhaps have the power—

Mr. Bailey (interposing): I rise to a point of order. No one not a member has a right to speak here.

The President pro tempore: The point of order is well taken.

Lieutenant-Governor elect Robertson: I make a demand upon you, gentlemen, to see that I am placed in the position the Constitution requires me to possess—.

Mr. Bailey (interposing): I insist on my point of order.

The President pro tempore: The doorkeeper and his assistants will remove the gentlemrn from the floor if he don't stop speaking.

Lieutenant-Governor elect Robertson: They may remove me. I am here unarmed and at your mercy.

The President pro tempore: We are unarmed. We are fore-warned though.

Lieutenant-Governor elect Robertson: I have a right to make this demand and insist upon my rights under the Constitution—.

(Here ensued a colloquy between the Senators and the Chair.)

Lieutenant-Governor elect Robertson: I still insist that I have a right under the Constitution on the floor of the Senate—.

The President pro tempore (interrupting): The chair must enforce order. Mr. Pritchett (the doorkeeper) Captain Pritchett.

Mr. Sellars: We should read the Journal.

The President pro tempore: Read the Journal.

Lieutenant-Governor elect Robertson: I insist upon my rights on the floor of the Senate—.

Mr. Fowler (interposing): I insist that the door-keeper remove this gentleman.

The President pro tempore (after calling for a vote): The ayes have it. Where is Captain Pritchett. Remove that man from the floor of the Senate. Put him on the outside and lock him out—(which the door-keeper proceeded to do.)"

Brev. Leg. Report 1887, p. 510, and Errata, p. 16.

This official record, graphic and entertaining as it is, falls short of conveying to the mind a full picture of the scene and so

must any attempt to describe it. A daily newspaper, which had two representatives within the Chamber, thus described it. "A few vigorous raps of the gavel were heard above the din. They caught the ear of Lieutenant-Governor Robertson, who at once started down the Chamber to the President's desk. On the front steps leading thereto stood D. E. Bulger, of Wells, an assistant door-keeper. The Lieutenant-Governor put his foot on the first step when Bulger pushed him back. The Lieutenant-Governor again attempted to ascend when he was caught by the guard and held for a moment, the Lieutenant-Governor pushing forward. In an instant Bulger caught him by the throat and with the other hand by the shoulder. Holding him thus for an instant, he threw him some fifteen or twenty feet from the steps. He saved himself from a fall, and in an instant, other door-keepers appearing on the scene, passed to the end of the Secretary's desk, where he turned a white but courageous face to the Senators." (We omit the colloquy, which is in effect the same as quoted from the Brevier Report, and the narrative continued.) "When thrown out of the door of the Senate into the corridor, Lieutenant-Governor Robertson was met by an angry and excited throng of about four hundred men. They were terribly in earnest, and a single word might have resulted in the bursting in of the huge oaken doors of the Senate, and the sudden and violent ejection of the usurping Smith, together with the door-keepers and hired bullies. There was a fire in their eyes and an angry roar that were neither to be mistaken or trifled with. Col. Robertson alone appeared perfectly calm, and to fully comprehend the savage seriousness of the moment. Raising his hand, entreating their attention, the turbulence subsided and all listened to what Col. Robertson would say. The crowd made way for him and he moved toward the north end of the Capitol along the corridor on the west side, first halting for a moment about fifty feet from the door out of which he had been hurled. Then, noticing the stairway leading up at the north end of the corridor to the upper floor, Col. Robertson led to the stairway, the throng, which by by this time numbered five hundred or more, following him. This was about one hundred feet from the Senate door, and going up the stairway five or six steps, overlooking the crowd, he addressed them. He spoke in calm tone, and in plain words, recited the outrage and indignity to which he had been subjected. His calmness was admirable, and in great contrast with the excitement of his audience. It was the calmness of a level-headed man of courage, the fortitude that prevented the excitement of the moment from taking judgment captive.

He said:

'GENTLEMEN:—So many are desirous of my stating the occurrences which have just transpired, that I will briefly say that on my applying for admission at the Senate door, I was peremptorily refused admission, both of the outside door-keepers stating that they had imperative orders to exclude me, and that they intended to obey orders.

An inside door-keeper repeated the same thing through the narrow opening of the doors when opened. While I was discussing the propriety of my exclusion with the outside guards, the door opened slightly, and the same person who had before denied me admission from the inside said, "That's all right, let Mr. Robertson come in," whereupon I was allowed to squeeze in. After entering, there was a struggle inside the doors between DeMotte, Johnson and other Republicans on one side, and the door-keepers on the other, which threatened to be serious, and lasted for some time. At half-past nine, I advanced to the steps leading to the President's desk. In the desk was President Smith, and standing on the lower step was a heavy set, black whiskered door-keeper whose name I have not learned. He said, "You can go no further." I replied that he had no right to stop me, when he placed both hands on my shoulders and again said, "You can go no further." I seized the post with my left hand and attempted to push past him, when he grasped me by the collar, and threw me with such force from the steps that I could only by the utmost exertion keep from falling, as I staggered and reeled to a point twelve or fifteen feet away.

I returned immediately to the desk of the Secretary, where, as soon as I could be heard, I appealed to the Senate, saying that I had been elected by the voice of the people to the position of Lieutenant-Governor; that the Constitution prescribed my duty to preside over the Senate, and I demanded my constitutional rights; that the question had twice been decided in my favor by the highest judicial tribunal of the State. I was several times interrupted by Smith, and ordered to stop, with the threat that he would have me removed from the floor of the Senate. I replied that perhaps they had the power to remove me, but I would not stop until compelled to, and renewed my appeal to the Senate as often as I could find opportunity to be heard.

During this time Senator DeMotte had, by Smith's orders, been violently pushed into his seat by door-keeper Pritchett, and once thrown violently to the floor. Finally, Senator Smith called door-keeper Pritchett, and ordered him to remove me from the Senate Chamber. A motion to that effect was made by Senator Fowler, but it was not put, and Pritchett, obeying the order of Smith, led me to the door and pushed me out. These, in brief, are the occurrences of the past few minutes.

And now, gentlemen, I see your blood is hot, and I do not wonder, for mine is too; but men in hot blood often do things which in their cooler moments they would regret.

Therefore, gentlemen, with all the earnestness I can command, I entreat of you, that you do nothing in the heat of passion which you would regret in the future.

I believe in my heart that a record has been made this morning which will hurl this infamous Democratic party from power in the State for the next quarter century.

Be peaceable and law abiding citizens, and let our enemies be the violators of law.' (Great applause and cheers for Lieutenant-Governor Robertson.)

It is a mild statement to say that Col. Robertson's speech averted serious consequences—perhaps blood-shed. At its close, all, with the exception of a few thoroughly angry and highly excited men, were ready to disperse. One large man, with shoulders like a Hercules, ran up the stairs beside the Lieutenant-Governor, and in a short and fiery speech proposed to the crowd to move upon the Senate doors, and clean out the Democratic Senators and door-keepers with the usurping Smith at the head. Col. Robertson spoke to the speaker and quietly requested him to desist, that the excitement was subsiding and the crowd ready to disperse. He turned to Col. Robertson, shook hands with him warmly, and stepped down. This was followed by a general rush to shake hands with the Lieutenant-Governor, who, as he moved away, was circled by his friends." *Indianapolis Journal, Feb. 25, 1887.*

When ejected, my own blood was up, and, stung by the insults received, it can scarcely be a matter of wonder that my first impulse was to join the crowd and direct its work and purpose.

I felt certain that if I said but a word, or raised my hand in sympathy with their impulse, the doors would be broken from their hinges. I felt just as certain that if I did so blood would be shed, that we would be successful, but that it would accomplish nothing but blood-shed, would involve us in the charge of being rioters and violators of the law, and that the state would be disgraced by a bloody riot whose final consequences none could foresee.

I knew too, that when a revulsion of feeling came, as it certainly would if a single life was lost, upon my shoulders would rest all the responsibility and all the anathemas.

My resolution was made in a moment, and I have never felt a moments regret for my course, but, on the contrary, under similar circumstances would again do the same.

If that course exhibits a "lack of sand", I am glad I lack that kind of sand. If it is "cowardice", I shall make no apologies for being that kind of a coward.

While I was being hurled across the floor of the Senate, and later being hustled out by the door-keeper and his assistants, where were the gallant and brave Senators who, under the lash of public opinion, so freely and loudly prated of "lack of sand" and "cowardice"? Did they, or any of them come to my assistance? Did they offer to aid me in my resistance? Not one of them stirred from his place. Not one of them aided or offered to aid me. Not one of them came near me to prevent me from being by force removed from the Chamber.

When the history I have endeavored to recall was fresh in the minds of the people. none who witnessed or read of it accused me of cowardice, but all applauded my conduct. It was after the details had time to be forgotten, that ambitious and jealous politicians—those whom Green Smith and his associates had selected as fit instruments to betray their party, and who proved the fitness of their selection by their betrayal of it—began first by insidious suggestions, and finally open charges, to change the sentiment of the public, desiring and intending to distract attention from their own conduct by making a scapegoat of me.

Immediately upon this, the Republican majority of the House, resolved to have no further communication with the Senate until it should recognize me as Lieutenant-Governor, and the Republicans of the Senate unanimously resolved to have nothing to do with its presiding officer except under protest. This effectually blocked all legislation, and the acts of that session cover but a few pages. There was one act however which became a law afterwards—the one providing for the magnificent monument which now adorns the Circle. The bill had passed the Senate, and was sent to the House, which promptly passed it.

The bill was signed by the Speaker, and then by me as Lieutenant-Governor, and sent to the Governor. He sent it back to the Senate, where Smith caused my name to be erased by heavy red ink scratches, and signed it as President of the Senate, after which it was approved by the Governor, and thus became a law. It was the only bill passed after the non intercourse resolution, and but for my action, would have fallen with the rest.

Before leaving the subject, perhaps I may be indulged in calling attention to these facts. A Lieutenant-Governor has not at his command a single officer of the law upon whom he may call to enforce his rights. Not a syllable in either the Constitution or laws of the State invests him with the slightest control over any peace officer of state, county or municipality. The Governor, as chief executive officer, commands and may call out the militia to

enforce laws, or to seat him, if debarred from his rightful place. The Governor was a Democrat and apparently in full accord with his party in the Senate. The county of Marion and its peace officers were Democratic. The city of Indianapolis and its police force were Democratic. All of these forces might have been called upon, and certainly would have been, to put down any attempt of mine to seize the Senate rostrum by force.

Twice since that memorable occasion, has history repeated itself. In 1888, Gen. Nathan Goff was elected Governor of West Virginia, and took the oath of office. The Legislature (Democratic) refused to recognize him as such, or to count the vote and declare him elected. An appeal was had to the courts, which, as in my case, declined to interpose, because the Legislature was a co-equal branch of the State Government. Governor elect Goff never took his seat as Governor, nor did he make any effort to obtain it forcibly, yet no one was heard to say that he "lacked sand" or was a "coward." He has been honored with a U. S. Circuit Judgeship, and tendered a cabinet position under President McKinley.

Again, in 1894, Henry Clay Evans was elected Governor of Tennessee. Again a hostile Legislature refused to count the vote and declare him elected. He never entered upon the duties of the office to which he was elected, nor did he make any effort to obtain it by force, no one has been heard accusing him of "cowardice" or "lack of sand", he too, has lately been considered a cabinet possibility and has been honored by President McKinley with the position of Commissioner of Pensions.

Both might have organized the various departments of their governments, called upon the state militia, or organized a new militia, if the old proved recreant to their orders, and involved their respective commonwealths in blood-shed and war, with a chance of success. Is there anyone who believes for an instant, that a Lieutenant-Governor could assume such prerogatives?"

In my opinion, Governor Goff and Governor Evans both acted as statesmen and brave men who love their country, and regard its welfare, should. It is the duty of the officers of the state to induct an officer elected into his office. It is not his duty to assume the office by violence.

Would I not have *deserved* the condemnation of the state, and of all law abiding citizens, had I not taken the same course they followed?

Do I deserve the contumely cast upon me, for refusing to follow a law violating, law defying, useless, and senseless course, which must have precipitated a riot, whose far reaching results can not be measured, and which could not be justified?